REMARKS

In the originally filed application, claims 1-30 were initially presented. In a Response to a previous Office Action, claims 1-31 from a related co-pending application were inadvertently and unintentionally electronically filed. Subsequently, Applicant identified the error and indicated that claims 1-30 as originally filed and subsequently modified during prosecution should be considered.

In the above-referenced Office Action, the Examiner indicated that there is confusion as to the properly pending claims and has explicitly requested that the proper claim set be re-filed with new claim numbers. Accordingly, Applicant has cancelled claims 1-31 and presented the proper claim set as "new" claims 32 – 59. The claims are generally the same as the correspondingly cancelled claims. The independent claims have been modified to indicate that the pacing pulse is a ventricular pacing pulse. Certain dependent claims that included similar subject matter were not replaced; thus, the difference in the number of claims.

The pending claims were provisionally rejected over a co-pending application for double patenting. No claims in either application have been formally indicated allowable; as such, the Examiner is incorrect to assume that Applicant "agrees" with the rejection.

Claims 1-5, 11-15, and 22-26 were rejected under 35 USC 102(e) over Park et al. (Park) and claims 1, 2, 4-12, 14-23, 25-31 were rejected under 35 USC 102(e) over Van Dam. Applicant respectfully traverses and incorporates the remarks made in previous responses by reference.

Claim 1 (32) is a method comprising:

delivering a ventricular pacing pulse to a heart;

sensing a ventricular signal resulting from the delivered pacing pulse;

detecting intrinsic ventricular activity within the sensed ventricular signal within the heart after delivering the pacing pulse; and

extending a pacing interval between the delivered ventricular pacing pulse and a subsequently delivered ventricular pacing pulse based on the detection of intrinsic ventricular activity.

Accordingly, a ventricular pacing pulse is delivered and the resulting signal is sensed. If an intrinsic component is identified, then an interval to the next ventricular pace is extended. This promotes the ability for intrinsic conduction to emerge and avoid the necessity of ventricular pacing.

Neither Park nor Van Dam disclose any teaching of providing a ventricular pace and then evaluating whether there is an intrinsic component to a resultant ventricular depolarization. The discussion of Park related to determining whether an intrinsic ventricular event was conducted from the atria or was ectopic is moot with respect to ventricular pacing. Likewise, the Examiner referred to Figure 6 of Van Dam. In that Figure, block 200 is a decision block. If an intrinsic ventricular depolarization occurs (i.e., no ventricular pacing), the flow progresses to block 202. If there was ventricular pacing at 200, then the flow progress to step 215.

Again, neither reference teaches or suggests evaluating whether a ventricular depolarization resulting from a ventricular pacing pulse includes an intrinsic component and if so, adjusting a ventricular pacing interval. As such, the claims are not anticipated.

In accordance with the above discussion, Applicant asserts that the presently claimed invention is patentably distinguishable from the indicated references. Applicant respectfully asserts that the present claims are in condition for allowance and notice of the same is earnestly solicited.

Respectfully submitted,

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